

JAN 28 2013

RECEIVED

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr. Mrs. Ms. Miss

Kendrick Story, #109934 Claimant

vs.

State of Arkansas, Respondent Dept. of Correction

Do Not Write in These Spaces Claim No. 13-0548-CC Date Filed January 28, 2013 Amount of Claim \$ 25,000.00 Fund DOC

COMPLAINT Negligence, Pain & Suffering, Personal Injury

Kendrick Story, #109934 the above named Claimant, of 7206 W. 7th St, Pine Bluff, AR 71603

represented by PRO SE (Legal Counsel, if any, for Claim)

of (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.) says:

State agency involved: Ardall Williams Unit ADC Amount sought: 25,000.00

Month, day, year and place of incident or service: THE ADC Showed Negligence to my serious medical needs by forcing me to work beyond my physical capacity and medical restrictions on my duty, this started June 7, 2012 at the Ardall Williams Unit. I have medical restrictions "M" prolonged walking, standing, stooping, kneeling, etc. and the warden Mark Cashin disregarded a known health risk and forced me to work on utility, Regional Maintenance and in the kitchen. I am also on mental disability "SS-1" and the ADC is forcing me for my disability but they also forcing me a disable man to work against his mental capacity which is 750 Negligence. I am taken mental health medication everyday and the ADC is aware of it. The had to have my mental health medication raised due to the mood and behavior changes, anxiety, panic attacks, more depressed which is causing me personal injuries mentally and physically. The warden Mark Cashin disregarded the doctor order when he went against the doctor order to take me out of the field and to give me a job change, the doctor contacted the classification officer on 9-14-12 and had her to assign me and to put me up for a job change she done what the doctor said on 9-19-12 I was seen by warden Mark Cashin and he was advised by his classification officer why I was standing before them and he made the order for the fourth time to leave me out in the field against the doctor order even after he was told by his classification officer that the doctor said to give me a job change which also show negligence, personal injuries as well because I am suffering from Degenerative Disc Disease of my L5-S1 and I am also suffering from Arthropathy of my L4-L5. I am also taken 40mg of EFFORXINE for my mental disability but I have medical records to support my claims as well as groceries the ADC also failed to follow procedures. Wendy Kelley also did not properly cover the grievance RW-12-00206.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

NO when? to whom? (Yes or No) (Month) (Day) (Year) (Department)

and that the following action was taken thereon: None

and that \$ 0 was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address

(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: and was acquired on, in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verify believes that they are true.

Kendrick Story #109934 (Print Claimant/Representative Name) Kendrick Story

Kendrick Story (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Pine Bluff AR (City) (State)

ROBERT C. MCCONNELL NOTARY PUBLIC-STATE OF ARKANSAS LINCOLN COUNTY My Commission Expires 09-25-2018 Commission # 12367989

this 17th day of January, 2013 (Date) (Month) (Year)

(Notary Public)

SF1-R799 My Commission Expires: 9 25 18 (Month) (Day) (Year)

Before The State Claims Commission
of the State of Arkansas

2 of 3

Complaint

Wendy Kelley failed to properly respond to my grievance in fact she did not answer my grievance, but she addressed issues that was not a part of the grievance that was sent to her she was also made aware of the medical condition with my back as well as the medical restrictions on my duties and that I was taken mental health medication everyday but she said that it was okay to force me to work against my mental disability, medical condition and medical restrictions on my duties with all do respect what can one do with "NO" prolonged walking, standing, stooping, crawling? I am in alot of pain my back is always hurting and the pain medication that I am taken for pain isn't working my right leg goes numb and the AHC still got me working out in the field right now please see grievance ALW 12-00353 dated 9-20-12, ALW 12-00000, Information about my SSI, doctor statement about giving me a job change, Statement from "Bych" Medical doctor about mental health medication, MRI from Premier, a copy of my medical restrictions and that I am also being treated for Hypertension I take that medication everyday as well, 2 grievance's and exhibits A-E

This also shows Negligence on Wendy Kelley behalf because she disregarded a known health risk of a prisoner's health, by allowing me to be forced to perform labor that's dangerous to my life and health and forcing me to work beyond my physical capacity and my mental disability that I am being treated for I am on SSI for being mentally disable which also shows Negligence on her behalf as well.

Larry May also showed Negligence to my serious medical needs when he disregarded the doctor directive order to unassign me and to give me a job change, he was made aware of this complaint when he received my grievance ALW 12-00353 dated 9-20-12 which he responded to on 12-4-12. It's clear that he did not follow the proper procedure when he disregarded the fact that

Complaint

The Classification officer said that she received a phone call from Dr. Hoodi and he asked her to unassign me and to give me a job change and he responded back and said that he found my grievance to be without merit and denied my appeal which forced me to suffer and caused me personal injuries because my lower back is in a lot of pain and I am still being forced to work out in the field after the doctor said to unassign me and to give me a job change this is a clear sign of Negligence on Harry May's behalf as well.

Deputy Warden John Lowe responded to my grievance RLW7200353 he also disregarded the fact that the Classification officer said the doctor asked her to unassign me and to give me a job change he also showed Negligence to my serious medical needs by not following the doctor's directive order to unassign me and to give me a job change he also failed to follow procedures which caused me personal injuries because I am still being forced to work out in the field against the doctor's order which is causing me pain. They are all aware of my medical condition with my back, they are also aware of my mental health medication and the medical restrictions on my duties which shows a clear sign of Negligence on the state's behalf.

End of

Complaint

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KENDRICK STORY (ADC 109934)

CLAIMANT

V.

NO. 13-0548-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ANSWER

COMES NOW the Respondent, Arkansas Department of Correction, and for its Answer, states and alleges as follows:

1. Respondent denies liability in this claim and asserts it will hold the Claimant to strict proof on each allegation unless admitted by Respondent. Respondent reserves the right to plead further upon completion of the investigation by internal affairs and requests the matter be held in abeyance until the investigation is complete.
2. The applicable account information required by the Commission is:
 - a. Agency number: 0480
 - b. Cost Center: HCA0100
 - c. Internal Order: 340301
 - d. Fund Center: 509

WHEREFORE, for the reasons cited above the Respondent prays that the claim be dismissed with prejudice and that Claimant take nothing, or in the alternative that the matter be held in abeyance until completion of the investigation by internal affairs.

Respectfully submitted,
Department of Correction Office of Counsel

Lisa Mills Wilkins
LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

**ARKANSAS STATE
CLAIMS COMMISSION**

FEB 06 2013

RECEIVED

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 5 day of February 2012, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

Kendrick Story (ADC 109934)
Randall L. Williams Unit
7206 W. 7th Ave.
Pine Bluff, AR 71603

Lisa Mills Wilkins
LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

KENDRICK STORY (ADC # 109934)

APR 02 2013
RECEIVED
CLAIMANT

V.

NO. 13-0548-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

RESPONDENT'S MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its MOTION TO DISMISS, states and responds as follows:

1. Claimant filed a claim alleging that on June 7, 2012, he was assigned to work in violation of his medical restriction. He seeks \$25,000.00 in damages. Claimant has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).
2. Claimant was seen by classification with medical personnel present on June 18, 2012 and assigned to field utility. Administrative Directive 02-13 permits assignment to field utility squad for inmates classified as M2 or M3 unless certain restriction. His restriction is no *prolonged* activity of certain types, not any activity of certain types. If Claimant is restricted from prolonged 'ing' activities, he is afforded certain breaks under the policy. He is not exempt from participating in any work as he would like this commission to believe.
3. Claimant fails to show how any facts to support his allegation that doing yard work is working him against any mental disability and causing him mental or physical injury. Furthermore, while incarcerated, Claimant cannot and is not drawing social security disability benefits which is prohibited by federal law. If he is being treated for mental disability, mental health officials can and would restrict his work activities if such were detrimental to his health and well-being. Since such restriction is not in his medical file, it must be assumed that physical exercise in the form of physical labor is good for both the mind and the body of the Claimant.
4. Claimant alleges that medical Deputy Director Wendy Kelly, did not properly respond to his grievance. Claimant is aware that if multiple issues are placed in a grievance, only one issue will be addressed for all purposes. Furthermore, only matters written in the space provided (that above his signature line) will be considered. Mrs. Kelly responded that Claimant had exceeded his writing space and the additional information was not considered.
5. Claimant misrepresents the statements of Dr. Hadi to his benefit. Claimant told Dr. Hadi 'he wanted to switch work from outside yard work to indoor mopping and cleaning as he worried lifting trees off the ground might injure his back'. Dr. Hadi noted he would call classification if job description can be changed from yard work to cleaning/mopping type of work.' Dr. Hadi did not change his orders or restrict his work, he simply said he would call to see if his job could be changed.


6. Had Dr. Hadi believed it medically necessary to remove him from yard work, Dr. Hadi could have written a script for 'no outside work', written a 'lay in ', or some other restriction, but there was not medical reason to change his assignment. Simply, Claimant didn't want to work outside any longer. Furthermore, medical personnel do not make job assignments. Dr. Hadi could place a restriction on the Claimant as mentioned above, but could not specify what type of job or assignment to send him to. That decision alone rests in the classification committee of the ADC, not in an employee of Corizon.

7. Claimant alleges he is on mental health medications and should not be doing physical work. While some medications may restrict the kinds of work that an inmate can do, such as avoid high temperatures, the type of medication that Claimant is taking does not carry that restriction.

8. Respondent has failed to state any claim against the ADC. Based on the foregoing statements, Claimant has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6).

WHEREFORE, for the reasons stated above and the evidence submitted, the Claim must be dismissed.

Respectfully submitted,
Department of Correction
Office of Counsel


LISA MILLS WILKINS Ark. Bar #87190
Attorney Supervisor
Post Office Box 8707
Pine Bluff, AR 71611
(870)267-6844 Office
(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of the above pleading has been served this 1 day of April, 2013, on the below Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

KENDRICK STORY (ADC # 109934)
Randall L. Williams Correctional Facility
7206 West 7th Avenue
Pine Bluff, AR 71602


LISA MILLS WILKINS Ark. Bar #87190

Hendrick Story #109934

Claimant

Claim NO. 13-0548-CC

ARKANSAS STATE CLAIMS COMMISSION

APR 04 2013

Arkansas Department of Correction

Respondents

RECEIVED

Claimant Motion To Deny The Respondent's Motion To Dismiss

Comes now the claimant and his motion to deny the respondent's motion to dismiss states as follows:

(1) The respondents states that the claimant is seeking relief for 25,000 in damages which is true, the respondents also states that the claimant has failed to state a claim upon which relief can be granted which is False I have stated a claim of Negligence against the respondents.

(2) The respondent is stating that I was seen by the classification committee with medical personnel present on June 18, 2012, the respondent is misconstruing the record to mislead the commission the date in question was 9/19/12 that's when MS. Loretha West advised the classification committee of the doctor directive order to unassign me and to give me a job change she also advised the classification committee that the doctor called her on 9/4/12 and asked her to unassign me and to put me up for a job change and MS. West the classification officer done what the doctor said and the Warden Mark Cashion being a non medical official disregarded the doctor's order

and he also disregarded his classification Officer Ms. Loretha West after she had advised the committee of the doctor order which is "Negligence" on Mark Cashion's behalf this is a clear sign of deliberate Indifference against Mark Cashion see: Estelle, 429 U.S. at 104-105; Meloy v. Bachmeier, 302 F.3d 845, 849 (8th Cir. 2002).

(3) The respondent is stating that the claimant has failed to show any facts to support his allegation that doing good work is working him against any mental disability and caused him mental or physical injury which is also false. I have produced the Claims commission with copies of my SSI paper work showing that I am disable to prove my claim. And with respect to me getting my disability while I am incarcerated is true so my check has been stopped but that does not mean that I am not disable and it's still "Negligence" on the respondent's behalf because they clearly disregarded it and it also caused me mental injuries because I've had to have my mental health medication raised due to having panic attacks, being more depressed and by the respondent saying since such restrictions are not in his medical file it must be assumed that physical exercise and physical labor is good for me which is also "Negligence" because their disregarding a known health risk if I did not need the mental health medication then why is you giving me mental health medication that I don't need which is also "Negligence" on the respondent's behalf which did cause me mental injuries as well as suffering.

(4) The respondent is stating that multiple issues are placed in a grievance only one issue will be addressed, the respondents are misconstruing the record to mislead the Claims Commission the grievance in question "RLW-12-00205" clearly speaks on me being forced to work on "Regional Maintenance" not Field Utility and Ms. Wendy Kelley never addressed the issue that was sent to her but Ms. Wendy Kelley clearly showed a clear sign of "Negligence" she states that the grievance policy prevented her from addressing my grievance but she also went against the grievance policy as well when she addressed issues that was not addressed to her on "RLW-12-00205" she clearly went out of her way and addressed that I was assigned to "Segregation and on punitive status due to fighting" this is a clear sign of "Negligence" on Wendy Kelley behalf she would not address my grievance but she addressed issues that was not on the grievance RLW-12-00205 that was sent to her she never addressed the issue of me being forced to work out on Regional Maintenance which is Negligence.

(5) The respondent is stating that the claimant misrepresents the statement of Dr. Hadi to my benefit which is also false, how can the claimant misconstrue the doctor statement when the claimant have produced a grievance "RLW-12-00353" that clearly shows what the doctor said to Ms. Loretha West on 9/14/12 it also said what was done after the classification officer advised the classification committee of the doctor directive order I could not get put up for a job change with out someone having me put up for a job change I also produced the commission with the doctor statement where he clearly said he was going to call classification to set my job changed
(See claimant exhibit B)

from yard work to mopping and cleaning type of work (5) five months after the doctor directive order (2-6-13) I was given the same job that the doctor was trying to get for me back then so how did I misrepresent the doctor statement but I also have witnesses that's going to be called to testify as well.

(6) Doctor Hadi did believe it was medically necessary to remove me from yard work, that's why he contacted the Classification Officer Ms. Loretha West to have me unassigned and to be put up for a job change this clearly defeats the purpose of written a lay-in that's why he contacted the Classification Officer to have me taken out of the field.

The respondent alleges that I did not want to work out side any more that's also a false statement the Commission have material facts from doctor Hadi to prove my claim that's been produced to the Commission to support my claims. And with respect to the doctor saying what kind of job he feels that would be good for me is his job, the Classification Committee looks to the infirmary for where they feel that the inmate should be placed and by the respondents disregarding the doctor directive order does show a clear sign of Negligence because the Classification Committee are non medical officials and they can not say what jobs I can or can't work.

(7) The respondents alleges that I am on mental health medication and should not be doing physical work, which was true because I am mentally disabled I was not working out on the streets I was getting SSI and by them forcing a disabled man to work is violating State and Federal laws.

- (8) The respondent alleges that the claimant has failed to state a claim upon which relief can be granted which is also false, the claimant have produced the commission with the material facts to support my claims ~~against~~ against the (ADC).
- (9) I the claimant see that the respondent did not speak on the Warden Mark Coshion, it was a clear sign of Negligence on his behalf by disregarding the doctor directive order to unassign me and to give me a job change he also was Negligence when he disregarded his classification officer Ms. Lorethawest when she advised him of the doctor order while classification was going on 9/19/12 the commission also have the doctor statement and the grievance from the claimant "ALLW-12-00353" he also subjected me to pain and suffering because he disregarded the doctor order for (5) months before he gave me the same job that the doctor was trying to set for me back on 9/14/12.
- (10) The Deputy Warden John Lowe also showed a clear sign of Negligence when he found my grievance with out merit he also forced me to suffer as well because he did not correct the wrong doing even after he had it in his hands to do he disregarded the doctor directive order to unassign me and to give me a job change to even though he was giving the same information from the classification officer Ms. Lorethawest he was the one who responded to my grievance "ALLW-12-00353" so he was made aware of it but still disregarded it which is "Negligence".

(11) The Chief Deputy Director Larry May also showed a clear sign of Negligence as well because he also disregarded my grievance RHW-12-60353 he also found my grievance without merit which forced me to suffer and caused me pain as well he had the same information but disregarded it which is a clear violation of Negligence the respondents is trying to misconstrue the records to mislead the commission the claimant have produced material facts to support my claims against the (ADC). WHEREFORE, the claimant prays that the commission will deny and dismiss the respondent motion ~~to~~ to dismiss and grant us a hearing on this case that's before the claims commission.

Respectfully submitted,

Hendrick Story #109934
Randall L. Williams Unit
7806 W, 7th
Pine Bluff, AR
71603

Dated: 4/2/13

STATE OF ARKANSAS)
COUNTY OF Jefferson) S

800-4

AFFIDAVIT

1. Hendrick Story #109931, after first being duly sworn, do hereby swear, depose and state that: on (9-14-12) I was seen by Dr. Hadi in the infirmary he was advised of my medical condition with my back as well as my medical restrictions on my duties, at this time the doctor contacted (MS. Loretta West) the classification officer at the Randall L. Williams Unit and asked her to Unassign me and to put me up for a job change MS. West done what the doctor said. on (9-19-12) I was seen by the Warden Mark Lashier he was advised by his classification officer (MS. West) of the doctor directive order to unassign me and to give me a job change from (yard work) to (mopping, cleaning type of work) and the Warden Mark Lashier disregarded the doctor order and his classification officer for (5) five months until (2-6-13).

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

3-23-13
DATE

Hendrick Story
AFFIANT

SOCIAL SECURITY # _____

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 23 day of March, 2013.

[Signature]
NOTARY PUBLIC

My Commission Expires: 11-30-20

JONATHAN CHARLES SMART
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 11-30-2020
Commission #: 12378838

STATE OF ARKANSAS)
COUNTY OF Jefferson)§

AFFIDAVIT

I, Kendrick Story # 119834, after first being duly sworn, do hereby swear, depose and state that: on 6-6-12 the Warden Mark Cashion and the Jailor Don Judith Savary was present when I came before the classification committee and was assigned to work on Regional Maintenance which forced me to work beyond my physical capacity and my medical restrictions on my duties. I have "ID" prolonged walking, standing, stooping, crawling etc. which they was also aware of the Lt. Lt Morning told Ms. Savary that I was not suppose to have been out there taken mental health medication and with the medical restrictions that I had on my duties and they forced me to suffer and disregarded it anyway.

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

3-23-13
DATE

Kendrick Story
AFFIANT

SOCIAL SECURITY # _____

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 25 day of March, 2013.

[Signature]
NOTARY PUBLIC

My Commission Expires: 11-30-20

JONATHAN CHARLES SMART
NOTARY PUBLIC STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 11-30-2020
Commission # 12378639

STATE OF ARKANSAS)
COUNTY OF Jefferson)§

AFFIDAVIT

I, Hendrick Story #109934, after first being duly sworn, do hereby swear, depose and state that: on March 22, 2012 I came to prison and the mental health counselor struck me on my mental health medication for one of my disabilities which is "Depression" I am also mentally disable and I am on "SSI" the ADC is aware of my mental disability and their still forcing me to work beyond my mental capacity which violates the Americans With Disabilities Act (ADA) I've produced my SSI paper work to the Arkansas State Claims Commission showing that I've been getting SSI for my mental disability since (1997) (1998) and that I was getting it in 2011 when I got locked up.

I further swear that the statements, matters and things contained herein are true and accurate to the best of my knowledge, information and belief.

4-2-13
DATE

Hendrick Story
AFFIANT

SOCIAL SECURITY # _____

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 2 day of April, 2013.

[Signature]
NOTARY PUBLIC

My Commission Expires: 11-30-20

JONATHAN CHARLES SMART
NOTARY PUBLIC-STATE OF ARKANSAS
LINCOLN COUNTY
My Commission Expires 11-30-2020
Commission # 12379839

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 25,000.00

Claim No. 13-0548-CC

Kendrick Story, #109934 Claimant
vs.

Attorneys
Pro se Claimant

Department of Correction Respondent
State of Arkansas

Lisa Wilkins, Attorney Respondent

Date Filed January 28, 2013

Type of Claim Negligence, Pain & Suffering & Personal Injury

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-7 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 2-7 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing April 11, 2013

Date of Disposition April 11, 2013

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

Before The Arkansas State Claims Commission

Hendrick Story # 109934

Claimant

Vs.

Claim No. 13-0548-CC

Arkansas Department Of Correction

Respondents

Motion For Reconsideration

ARKANSAS STATE
CLAIMS COMMISSION

APR 16 2013

Comes now the claimant and his motion for reconsideration states as follows:

RECEIVED

On April 1, 2013 the respondents filed a motion to dismiss my complaint and I the claimant filed a motion to deny the respondents motion to dismiss I also showed how the respondents was Negligence because of their (failure to Act). I also produced the claims commission material facts to support my claims that the Warden Mark Cashion disregarded the doctor directive order when he clearly stated to give me a job change. Dr. Holt also contacted the classification officer Ms. Loretta West and had her to unassign me and to put me up for a job change and Ms. West done what the doctor said on 9/19/12 at this time I was saw by the classification committee and they was advised by the classification officer Ms. West of the doctor order and the classification committee showed a clear sign of Negligence because they failed to act on the doctor order after they had been advised by the Classification officer of the doctor order

I showed the claims commission how Deputy Warden John Lowe was Negligence also, he was the one who responded to the grievance that was written on Warden Mark Cashion he disregarded what his Classification officer Ms. West said and he failed to act on the grievance which also subjected me to pain and suffering because I was forced to work against the doctor's directive order for (5) five months. I showed the claims commission how the Chief Deputy Director Harry May was also Negligence and subjected me to pain and suffering as well, because his over the grievance procedure and he did not correct the wrong that had been done and by his failure to Act these show a clear sign of Negligence because he could have corrected it but he did not. I showed how the Deputy Director Wendy Kelley was also Negligence because she would not address my grievance that was sent to her, but she had time to address a issue that was not addressed to her on the grievance that was sent to her she subjected me to pain and suffering because I was being forced to work on (Regional Maintenance) against my medical restrictions and my medical condition with my back I am suffering from a Degenerative Disc and Arthropathy in my back which I've produced the claims commission copies of. The respondent is saying that (AD 02-13) give them permission to force me to work against my medical restrictions on my duties which is also false, (AD 02-13) only speaks about a inmate being assigned to (Field Unit), (Garden Squad), (Hoe Squad) it does not clear a inmate to be assigned to (Regional Maintenance) because they don't give breaks out there I was not giving breaks every hour as the respondents is alleging in their motion and the respondents have not produced (NO Records) from the Squad cards showing when I Kendrick Story was giving breaks every hour according to (AD 02-13) this was something that I the claimant was going to subpoena the respondents to bring to the hearing. I also have witnesses that was going to be called to testify about the claims that's filed against the AOC that will prove my case, the claimant prays that the commission will please reconsider it's order and please allow the claimant to proceed with his claims the claimant has the material facts to support

his claims which they have been produced to the commission as well for the reasons set forth the claimant prays that the commission will please reconsider the order that was made on April 11, 2013 and please allow the claimant to be allowed to proceed before the commission.

Respectfully submitted,
Hendrick Story #109934
Randall L. Williams Unit
7206 W. 7th
Pine Bluff, AR
71603

STATE CLAIMS COMMISSION DOCKET
OPINION

Amount of Claim \$ 25,000.00

Claim No. 13-0548-CC

<u>Kendrick Story, #109934</u>	Claimant	<u>Pro se</u>	Claimant
vs.			
<u>Department of Correction</u>	Respondent	<u>Lisa Wilkins, Attorney</u>	Respondent
<u>State of Arkansas</u>			
Date Filed <u>January 28, 2013</u>		Type of Claim <u>Negligence, Pain & Suffering & Personal Injury</u>	

FINDING OF FACTS

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's April 11, 2013, order remains in effect.

IT IS SO ORDERED.

(See Back of Opinion Form)

CONCLUSION

The Claims Commission hereby unanimously denies Claimant's "Motion for Reconsideration" for the Claimant's failure to offer evidence that was not previously available. Therefore, the Commission's April 11, 2013, order remains in effect.

Date of Hearing May 16, 2013

Date of Disposition May 16, 2013

[Signature] Chairman
[Signature] Commissioner
[Signature] Commissioner

**Appeal of any final Claims Commission decision is only to the Arkansas General Assembly as provided by Act #33 of 1997 and as found in Arkansas Code Annotated §19-10-211.

MAY 24 2013

RECEIVED

Hendrick Story # 109934

Claimant

V.

Case NO. 13-0548-CC

Arkansas Department Of Correction

Respondent

Notice Of Appeal Of The
Decision To The General Assembly

Comes now claimant and his Appeal To The General Assembly
States As follows:

On January 08, 2013 the claimant filed a complaint with the Arkansas State Claims Commission, which the Claims Commission clearly disregarded even though the claimant produced the Commission with the material facts to support the claimant claims but to NO avail. The Claims Commission responded and unanimously granted the respondent Motion To Dismiss even though the claimant produced a grievance that clearly stated what the doctor told the classification officer MS. Loretha West and that she done what the doctor ordered and the warden being a non-medical official disregarded the doctor directive order. See; Estelle, 432 U.S. at 104-105; Meloy V. Bachmeier, 302 F.3d 845, 849 (8th Cir. 2002) also see; Farmer V. Brennan, 511 U.S. 825, 839-40, 114 S.Ct. 1970, 123 L.Ed. 2d 811 (1994) The Warden Mark Cashion Denied the claimant access to the treatment that the doctor order for the claimant to receive, see; Brown V. District Of Columbia 514 F.3d 1279 D.C. Cir. 2008. The respondent was suppose to rely on what the prison doctor ordered for the claimant but to no avail, see; Johnson V. Daugherty, 433 F.3d 1001 (7th Cir. 2006)

The claimant filed a reconsideration on the State Claims Commission decision because the claimant produced a genuine issue of material facts to support my claims, but the commission dismissed the claimant complaint without giving me a hearing so I could have proven my case by using the material facts that I sent to them in support of my claims. A dismissal is not appropriate "Unless it appears beyond doubt that the claimant can prove no set of facts in support of his claims which would entitle the claimant to relief which the claimant did produce. See; Conley V. Gibson, 355 U.S. 41, 45-46, 78 S. Ct. 99, 101-02, 2 L. Ed. 2d 80 (1957). A dismissal based on a disbelief of a complaint factual allegations without being giving a hearing, or denying the claimant a chance to prove his claims even though the claimant has produced material facts to support his claims. See; Neitzke V. Williams, 490 U.S. 319, 327, 109 S. Ct. 1827, 1832, 104 L. Ed. 2d 338 (1989). A claim should not be dismissed if it is possible to (Hypothesize Facts) consistent with the complaint, that would make out a claim. See; Gruehling V. Village Of Lombard, 58 F. 3d 295, 297 (7th Cir. 1995). The respondent is using (Administrative Directive 02-13) that permits assignment to (Field Utility) for inmates classified as M2 or M3 the respondent falsified the claimant complaint because the job that the claimant filed a complaint on was (Regional Maintenance) and the "Administrative Directive 02-13" does not permit the claimant to be forced to work on (See claimant Exhibit (1) Administrative Directive 02-13 that clearly shows that it does not speak on Regional Maintenance so it was a clear sign of Negligence, pain's suffering Lt. Moring told Ms. Savoy that I was not suppose to have been out there because they are not giving breaks which was appealed to Ms. Wendy Kelley and she clearly disregarded it which was also Negligence because she failed to act. The respondent also falsified the date in question they was speaking on (June 18, 2012) when the date on the grievance was (June 7, 2012) and the job assignment clearly stated "Regional Maintenance" not "Field Utility", the respondent intent was to mislead the claims commission by misconstruing the records but on that grievance it was stated that according to the (ADC) my restrictions allowed the claimant to be forced to work out on Regional Maintenance and that medical gave me my medical restriction on my duties also the date on the claimant complaint form was (June 7, 2012) not (June 18, 2012) so it is clear that the respondent intent was to misconstrue the records to mislead the claims commission into dismissing the claimant complaint and it worked even though the claimant produced a genuine issue of matter facts to support his claims.

Also Ms. Wendy Kelley failed to properly address the claimant grievance because she stated that I wrote pass my name on the grievance form and it was policy that she did not have to address it at this time, but she clearly went against her grievance policy when she addressed a issue on my grievance that was not addressed to her on the grievance that was sent to her. The Claims Commission has denied the claimant (reconsideration) and stated that the claimant failure to offer evidence that was not previously available, which is a False statement because everything that the claimant is speaking on now was produced in the claimant complaint the documents in support of the claimant claims was also produced but the Claims Commission clearly disregarded it and dismissed the claimant complaint. The respondent conduct demonstrated (Deliberate Indifference) to the claimant serious medical need when they disregarded the doctor directive order to unassign the claimant and to give me a job change. See; Estelle V. Gamble, 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L. Ed. 2d 851. A serious medical need is one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor attention, the claimant was taken to (Premier MRI 3 Imagin) and a MRI was done which showed that the claimant was suffering from Degenerative Disc Disease At L5-S1 and that I was also suffering from Bilateral Facet Arthropathy At L4-L5 so the respondent was fully aware of the claimant condition and the Claims Commission was also made aware because I sent them a copy of the claimant (MRI) the condition is not going to get better if only gets worst and I stay in alot of pain all of the time see; Loonan V. Helgemoe 437 F. Supp. 269, 311 (D.N.H. 1977) the claimant prays that the "General Assembly" will grant the claimant the relief that you deemed just fair and proper.

Respectfully Submitted,
Kendrick Story #109934
Randall L. Williams Unit
7206 W. 7th
Pine Bluff, AR
71603

All inmates assigned to field utility squads that have Limitation #1 and the work assignment requires sustained or uninterrupted exertions greater than one (1) hour, the limitation can be accommodated by utilizing a ten (10) minute break within or at the end of the one (1) hour period. The break must allow the inmate to refrain from engaging in activity for which the inmate was restricted, i.e., break from standing, break from stooping, etc.

To determine the expiration of one (1) hour for the purpose of the breaks, it will be understood that the time calculations will commence when the inmate begins to perform physical exertion (work). The field utility squad will be provided water at each break. If weather dictates, water breaks will be more frequent.

4. Inmates may be reassigned at the recommendation of the field supervisor and/or the Unit Classification Officer on a temporary basis until seen by the Unit Classification Committee, for the following reason(s):

- a. The Field Major/Field Supervisor and/or Classification Officer feels the inmate is performing his work assignment at his maximum performance level but for reasons beyond his control is unable to keep up with the pace.
- b. The inmate has an enemy alert that needs to be evaluated.

((c. Documentation))

All inmates assigned to a hoe squad (male) field squad (female), garden squad, or field utility squad having a medical classification of M-2 or M-3 will have a copy of their MSF 103 (see Attachment #2) forwarded to the Field Major/Field Supervisor by the Unit Classification Officer. It will be the Field Major's/Field Supervisor's responsibility to have the information from the MSF-103 on all inmates assigned to the squads. The information will then be recorded on the respective squad cards (see Attachment #3) along with the inmate's name and ADC number. The Field Major/Field Supervisor will provide each of the officers with a copy of the physical limitation terminology (Attachment #4). Medical Services will provide training as needed. Replacement copies of the physical limitations terminology will be available from the Field Major/Field Supervisor.

(Exhibit 1) 24